



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/22/2558**

**Re: Property at 322 Dyke Road, Glasgow, G13 4RZ (“the Property”)**

**Parties:**

**Mr Murdo Robertson, 30 Carlibar Avenue, Glasgow, G13 4AP (“the Applicant”)**

**Ms Louise Taylor, Robert Kane, 322 Dyke Road, Glasgow, G13 4RZ (“the Respondents”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Eileen Shand (Ordinary Member)**

**Decision (in absence of the Respondents)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondents from the property.**

**Background**

1. By application dated 27 July 2022 the Applicant’s representatives, Clarity Simplicity Limited, Glasgow, applied to the Tribunal for an order for the eviction of the Respondents from the property under Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted copy tenancy agreement, Notice to Leave with proof of intimation, Estate Agency agreement and Section 11 Notice and supporting email in support of the application.
2. Following further correspondence between the Tribunal administration and the Applicant’s representatives by Notice of Acceptance dated 7 October 2022 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 23 November 2022.

### **The Case Management Discussion**

4. A CMD was held by teleconference on 9 January 2023. The Applicant did not attend but was represented by Ms Kara McGregor-Duke from the Applicant's representatives. The Respondents did not attend nor were they represented. The Tribunal being satisfied that proper intimation of the proceedings had been given to the Respondents determined to proceed in their absence.
5. Ms McGregor-Duke confirmed that the parties had entered into a Private Residential Tenancy that had commenced on 28 January 2019 at a rent of £650.00 per calendar month. She acknowledged that the copy agreement submitted to the Tribunal was unsigned but understood that this was because the original agreement had been signed electronically.
6. Ms McGregor-Duke confirmed that a Notice to Leave had been sent by recorded delivery post to the Respondents on 4 April 2022 and had been delivered on 8 April 2022. She said the Respondents had been given the required 84 days' notice. The Tribunal noted that the proceedings had been raised on 27 July 2022. With regards to the Notice being sent by post rather than email the Tribunal confirmed it had noted the correspondence from the Applicant's representatives to the Tribunal administration in this regard.
7. The Tribunal queried why the Applicant was wishing to sell the property and Ms McGregor-Duke explained that the Applicant only had one rental property and with rising mortgage and other costs it was no longer financially viable to retain the property. He wished to realise the equity in the property to clear his debts.
8. The Tribunal asked if Ms McGregor had any information about the Respondent's circumstances. Ms McGregor-Duke confirmed that the Respondents remained in the property but was unable to confirm whether or not they had any children. She was able to advise that the property had not been adapted in any way. She said that after an initial email to the letting agents advising that the Respondents had been advised by the Council to remain in the property until an order was granted there had been no further communication from them.

### **Findings in Fact**

9. The parties entered into a Private Residential tenancy that commenced on 28 January 2019 at a rent of £650.00 per calendar month.
10. A Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act was sent to the Respondents by Recorded Delivery post on 4 April 2022.
11. The Notice to Leave provided that any application to the Tribunal would not be submitted before 1 July 2022 and an application was made on 27 July 2022.

12. Intimation of the proceedings was sent to Glasgow City Council by way of a Section 11 Notice by email on 27 July 2022.
13. The Applicant has instructed Express Estate Agency, Manchester to market the property for sale.
14. The Applicant wishes to realise the equity in the property to clear debts and does not consider it economically viable to continue to rent the property.

### **Reasons for Decision**

15. The Tribunal was satisfied from the documents produced and the oral submissions that the parties entered into a Private Residential Tenancy Agreement that commenced on 28 January 2019 at a rent of £650.00 per calendar month.
16. Although the agreement provided that all communication between the parties should be by email the Notice to Leave was sent to the Respondents by recorded delivery post after an email advising of the Applicant's intention to end the tenancy and sell the property had been sent to the Respondents. It was explained to the Tribunal in correspondence that this had been done as the Respondents required to take the Notice to Leave to the local authority to apply to be re-housed and it was not known if they had a printer. The Respondents did not participate in the proceedings and did not take issue with the method of service of the Notice to Leave. In the circumstances the Tribunal was satisfied that the Respondents had been served with a valid Notice to Leave.
17. The Tribunal was also satisfied that proper intimation of the proceedings had been sent to Glasgow City Council by way of a Section 11 Notice sent by email by the Applicant's representatives on 27 July 2022.
18. In terms of the Coronavirus (Scotland) Act 2020 and the Coronavirus Recovery and Reform (Scotland) Act 2022 the Tribunal has to be satisfied that it is reasonable in the circumstances to grant the order. The Tribunal accepted that due to increased costs the Applicant no longer found renting the property to be economically viable. The Respondents did not submit any written representations nor did they attend the CMD. The Tribunal had no information of consequence as to their circumstances other than it appeared they had been advised to remain in the property until an order for their eviction was granted. Taking everything into account the Tribunal was satisfied that it was reasonable to grant an order for the eviction of the Respondents from the property.

### **Decision**

19. The Tribunal being satisfied from the written representations and oral submissions that it had sufficient information before it to make a decision without the need for a hearing determined that the Applicant was entitled to an

order for the eviction of the Respondents from the property under Ground 1 of Schedule 3 of the 2016 Act.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

**Graham Harding**

**Legal Member/Chair**

**9 January 2022**  
**Date**